

APPEAL NO. 032787
FILED DECEMBER 3, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 23, 2003. With respect to the issues before him, the hearing officer determined that the compensable injury of _____, extends to and includes the respondent's (claimant) cervical spine, thoracic spine, bilateral legs, bilateral arms, bilateral wrists, and bilateral hands and that the claimant is entitled to change treating doctors to Dr. B. In its appeal, the appellant (carrier) asserts error in each of those determinations. In her response, the claimant urges affirmance.

DECISION

Affirmed as reformed.

We note that throughout the decision and order the hearing officer cites to Section 408.002 as the provision dealing with change of treating doctors. Those references are corrected to cite the proper section, specifically Section 408.022.

The hearing officer did not err in determining that the claimant's compensable injury extends to her cervical spine, thoracic spine, bilateral legs, bilateral arms, bilateral wrists, and bilateral hands. The extent-of-injury issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was persuaded that the claimant sustained her burden of proving that the compensable injury included injuries to the body parts at issue. Nothing in our review of the record reveals that the challenged determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer also did not err in determining that the claimant was entitled to change treating doctors from Dr. M to Dr. B. Section 408.022(c) provides a list of criteria for approving a change of treating doctors. In this instance, the hearing officer found that Dr. M was no longer willing to coordinate the claimant's health care. Based on this finding, the hearing officer concluded that "[t]he claimant is entitled to change treating doctors to [Dr. B], pursuant to [Section 408.022]." The hearing officer's determination that Dr. M was no longer willing to coordinate the claimant's care is supported by sufficient evidence and is not so contrary to the great weight of the evidence as to compel its reversal. Because the hearing officer was persuaded that Dr. M was no longer willing to serve as the claimant's treating doctor, he did not err in

determining that the claimant was entitled to a change of treating doctors. *See also* Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 126.9(e)(2) (Rule 126.9(e)(2)) (specifically listing a selected doctor's choice not to be responsible for coordinating care as a reason for approving a change of treating doctor).

The hearing officer's decision and order are affirmed as reformed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION for Reliance National Indemnity Company, an impaired carrier**, and the name and address of its registered agent for service of process is

**MARVIN KELLY, EXECUTIVE DIRECTOR
9120 BURNET ROAD
AUSTIN, TEXAS 78758.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge